

election and post-election C-4 summary reports, due respectively on October 26 and December 10, 2004.

III.

SUMMARY OF FINDINGS

3.1 In his 2004 campaign, Mac Setter disclosed \$56,985 in contributions and \$54,593 in expenditure activity between 7 and 473 days late. Mr. Setter raised and spent a total of \$57,468 in his 2004 campaign (\$50,350 of this, or 87%, was from his own funds). Nearly all of his contribution and expenditure activity was thus reported late. The late-reported activity was as follows:

C-3 Deposit Date	Deposit Amount	Date Report Due	Date Filed	Days Late
3/31/04	\$15,000 Candidate Contribution	4/12/04	8/16/04	126
4/27/04	\$2,585 Contributions	5/10/04	8/16/04	98
5/13/04	\$375 Contributions	6/10/04	8/16/04	67
6/17/04	\$450 Contributions	7/12/04	8/16/04	35
8/10/04	\$800 Contributions	8/16/04	9/21/04	36
8/11/04	\$15,000 Candidate Loan	8/16/04	9/21/04	36
8/26/04	\$1,300 Contributions	8/30/04	9/21/04	22
10/8/04	\$20,000 Candidate Contribution	10/11/04	1/27/06	473
10/8/04	\$1,150 Contributions	10/11/04	1/27/06	473
12/7/04	\$200 Candidate Contribution	1/10/05	1/27/06	382
2/14/05	\$100 Candidate Contribution	3/10/05	1/27/06	323
TOTAL \$56,960				

C-4 Report	Contributions	Expenditures	Date Report Due	Date Filed	Days Late
March 2004 C-4	\$15,002	\$12	4/12/04	8/16/04	126
April 2004 C-4	\$2,592	\$314	5/10/04	8/16/04	98
May 2004 C-4	\$375	\$3,519	6/10/04	8/16/04	67
June 2004 C-4	\$457	\$2,462	7/12/04	8/16/04	35
21-Day Pre-Primary C-4	\$15,800	\$15,597	8/24/04	9/21/04	28
7-Day Pre-Primary C-4	\$1,307	\$287	9/7/04	9/21/04	14
7-Day Pre-Primary C-4	—	\$4,687	9/7/04	10/19/04	42
21-Day Pre-General C-4	—	\$2,066	10/12/04	10/19/04	7
7-Day Pre-General C-4	\$21,152	\$25,301	10/26/04	1/27/06	458
Post-Election C-4	—	\$348	12/10/04	1/27/06	413
Dec 2004 – Jan 2006 C-4	\$200	—	1/10/05	1/27/06	382
Dec 2004 – Jan 2006 C-4	\$100	—	3/10/05	1/27/06	323
TOTAL	\$56,985	\$54,593			

- 3.2 Mr. Setter's 21-day pre-general election C-4 report did not cover the full period required to be covered on that report, but covered only through September 30, 2004. Following this report, filed on October 19, 2004, Mr. Setter's campaign ceased reporting through the 2004 general election. At the request of PDC staff, on January 27, 2006 Mr. Setter filed C-4 reports covering the months of October and November 2004. These reports were between 413 and 458 days late. On January 27, 2006, he filed a final C-4 report covering December 2004 through January 2006. The contribution activity on this report was disclosed on form C-4 between 323 and 382 days late.
- 3.3 In a response to the complaint, Mac Setter stated that his committee's failure to file any reports following the 21-day pre-general election C-4 submitted on October 19, 2004 could be explained by personal scheduling issues affecting his treasurer, and his treasurer's mistaken belief that reporting for the campaign was complete. Mr. Setter stated that any late reporting during the campaign was due in part to technical problems with the PDC's electronic filing software, which on occasion forced him to file hard copy reports through the mail. Staff found evidence that Mr. Setter was referring here to the electronic filing option for the Personal Financial Affairs Statement, an application that is separate and distinct from the electronic reporting system for contributions and expenditures, and which would not have impacted his ability to file timely reports for his campaign.

DETAILED FINDINGS

- 3.4 **Initial C-3 and C-4 Reports** - On August 16, 2004, Mac Setter filed C-3 and C-4 reports for periods from March 1 – June 30, 2004. **(Exhibit 3)** The reports disclosed \$18,426 in contributions, including a \$15,000 contribution from the candidate, and \$6,307 in expenditure activity. The activity was due to be reported on April 10, May 10, June 10, and July 10, 2004, and was disclosed between 35 and 126 days late.
- 3.5 **Additional C-3 Reports** – For deposits on or after July 1, 2004 through the date of the 2004 general election, Mac Setter was required to file a C-3 report on the Monday following the date of deposit. On September 21, 2004, Mr. Setter filed C-3 reports for three deposits that occurred on August 10, 11, and 26, 2004. **(Exhibit 4, pp 1 - 5)** The deposits, for \$800, \$15,000, and \$1,300 respectively, were disclosed between 22 and 36 days late.

On January 27, 2006, Mac Setter filed four C-3 reports disclosing deposits that occurred on October 8, December 7, 2004 and February 14, 2005. **(Exhibit 4, pp 6 - 9)** Two deposits for \$1,150 and \$20,000, both made on October 8, 2004, were due to be disclosed on the Monday following the date

of deposit, or October 11, 2004, and were disclosed 473 days late. The remaining two deposits, for \$200 and \$100, were due to be disclosed on January 10 and March 10, 2005, respectively, and were disclosed between 323 and 382 days late. Of the \$21,450 in late-reported contributions included on these four C-3 reports, \$20,300 represented the candidate's own funds.

- 3.6 **21-Day Pre-Primary C-4** - In the 2004 election, the 21-day pre-primary election C-4 report was due on August 24, 2004 and was required to cover July 1 – August 17, 2004. On August 16, 2004, the Mac Setter campaign filed a C-4 report covering July 1 - 31, 2004. This report, which covered the initial 31 days of the 21-day pre-primary election reporting period, disclosed \$469 in contributions and \$3,114 in expenditure activity, and was timely filed.

On September 21, 2004, Mac Setter filed a C-4 report covering all of the month of August 2004, including the remainder of the 21-day pre-primary election reporting period, or August 1 – 17, 2004. **(Exhibit 5)** Activity during these seventeen days included \$15,800 in contribution deposits, composed mostly of a loan from the candidate, and \$15,597 in political advertising expenditures. This activity was required to be disclosed on August 24, 2004; it was reported 28 days late, and 7 days after the 2004 primary election.

- 3.7 **7-Day Pre-Primary C-4** - In the 2004 election, the 7-day pre-primary election C-4 report was due on September 7, 2004 and was required to cover August 18 – September 6, 2004. The C-4 filed by Mac Setter on September 21, 2004 **(Exhibit 5)** for the month of August 2004 covered the first 12 days of this period. Activity during these 12 days included \$1,307 in contribution deposits and \$287 in political advertising expenditures. This activity was disclosed 14 days late, and 7 days after the 2004 primary election.

On October 19, 2004, Mac Setter filed a C-4 report covering all of the month of September 2004, including the remainder of the 7-day pre-primary election period, or September 1 – 6, 2004. **(Exhibit 6)** Activity during these 6 days included \$4,687 in political advertising expenditures. This activity was disclosed 42 days late, and 35 days after the 2004 primary election.

- 3.8 **21-Day Pre-General C-4** - In the 2004 election, the 21-day pre-general election C-4 report was due on October 12, 2004 and was required to cover September 7 – October 5, 2004. The C-4 filed by Mac Setter on October 19, 2004, covering the month of September 2004 **(Exhibit 6)** covered the initial 24 days of this period. Activity during these 24 days included \$2,066 in political advertising expenditures. This activity was disclosed 7 days late, which was 14 days before the general election. The report showed the campaign with \$3,954 in cash on hand, and with a \$15,000 liability to Mr. Setter for his loan to his campaign.

On January 27, 2006, in response to staff's request a C-4 report was filed to cover the month of October 2004, including the remainder of the 21-day pre-general election reporting period, or October 1 – 5, 2004. **(Exhibit 7)** The report documented no additional activity during the unreported portion of the 21-day pre-general election reporting period.

- 3.9 **7-Day Pre-General C-4** - In the 2004 election, the 7-day pre-general election C-4 report was due on October 26, 2004 and was required to cover October 6 – 25, 2004. On January 27, 2006, a report was filed to cover the month of October 2004. **(Exhibit 7)** This report disclosed \$21,152 in previously unreported contribution deposits, and \$25,300 in previously unreported monetary expenditures, all for political advertising. This activity was disclosed 458 days late, and 451 days after the 2004 general election.
- 3.10 **Post-General Election C-4** - In the 2004 election, the post-general election C-4 report was due on December 10, 2004 and was required to cover October 26 – November 30, 2004. The report filed by Mac Setter on January 27, 2006 for the month of October 2004 **(Exhibit 7)** covered the initial six days of the post-general election reporting period, but disclosed no reportable activity during these six days. On January 27, 2006, Mr. Setter also filed a C-4 covering the month of November 2004, which included the remainder of the post-general election reporting period. **(Exhibit 8)** The report disclosed that during the final 30 days of this period, the campaign made monetary expenditures totaling \$348, including \$323 for political advertising. This activity was disclosed 413 days late.
- 3.11 **Other C-4 Reports** - On January 27, 2006, Mac Setter filed a C-4 for the period of December 1, 2004 through January 31, 2006. **(Exhibit 9)** The report disclosed \$300 in contribution deposits that were required to be disclosed on C-4 reports due January 10 and March 10, 2005 and were disclosed between 323 and 382 days late.
- 3.12 **Response from Mac Setter** - A written response to the complaint was received from Mac Setter on January 30, 2006. **(Exhibit 10)** In his response, Mr. Setter explained that during the months of October, November and December of 2004, his treasurer Brian Halverson was finishing construction of his personal residence and moving his family into the home, and believed at that time that reporting for Mr. Setter's campaign was complete. Mr. Setter recognized that he bore responsibility for his treasurer's mistake.
- 3.13 In his January 30, 2006 response, Mr. Setter also stated that he was uncomfortable with PDC staff's assertion that most of his activity for his 2004 campaign was reported late. He stated that on at least one occasion, he

attempted to timely file reports for his 2004 campaign electronically, and then mailed hard copies when the electronic reports failed to transmit successfully. He stated that he believed at the time that the technical problems he encountered were part of the natural "shake-out" process of the mandatory electronic filing system.

- 3.14 Mac Setter submitted signature authorization and password documents for electronic filing of campaign reports on April 24, 2004. On April 28, 2004 PDC staff processed these documents and emailed the Filer ID necessary for electronic filing to Brian Halverson. PDC staff telephone records indicate that staff was contacted by Mr. Halverson regarding electronic filing of campaign reports on three subsequent occasions, once on August 10, 2004 and twice on August 16, 2004. On the last occasion, Mr. Halverson called to inform PDC staff that he would begin uploading Mr. Setter's contribution and expenditure reports shortly.
- 3.15 The internal PDC log of electronic filing errors (**Exhibit 11**) includes no errors associated with Mr. Setter's campaign prior to August 16, 2004, the date that his campaign's first contribution and expenditure reports were received. As of that date, the campaign's reports were between 35 and 126 days late. Beginning on August 16, 2004, the internal error logs include records of multiple electronic filing errors committed by his campaign, including errors associated with an incorrect Filer ID number, incorrect passwords, and filing multiple reports of the same data. The logs indicate no errors by the campaign during September 2004, and further errors in October 2004. Despite these errors, every contribution and expenditure report received during Mr. Setter's 2004 campaign was filed electronically; no hard copy reports were received via mail, as Mr. Setter stated.
- 3.16 PDC staff telephone records indicate that Mr. Setter contacted PDC staff to discuss the Personal Financial Affairs Statement (PDC form F-1) on three occasions, twice on August 9, 2004 and once on August 19, 2004. Staff found evidence that Mr. Setter filed a hard copy of his F-1 report after receiving a reminder letter from PDC staff; it appears that he created an electronic F-1 report through the PDC's online application, but simply saved this report rather than submitting it. (**Exhibit 12**) It appears that the hard copy report referenced by Mr. Setter in his January 30, 2006 response to the complaint was his F-1 report. However, the PDC's online application for electronic filing of the F-1 statement is separate and distinct from the campaign reporting software, and Mr. Setter's difficulty with F-1 filing would not have impacted his ability to file for his campaign.

IV.

SCOPE

- 4.1 Staff reviewed the complaint filed by William McCallum, received on October November 29, 2005.
- 4.2 Staff reviewed the C-1 Candidate Registration filed by Mac Setter on March 25, 2004.
- 4.3 Staff reviewed all contribution and expenditure reports received from the Mac Setter 2004 campaign, including the following:
 1. C-3 and C-4 reports filed on August 16, 2004.
 2. C-3 and C-4 reports filed on September 21, 2004.
 3. C-4 reports filed on October 19, 2004.
 4. C-3 and C-4 reports filed on January 27, 2006.
- 4.4 Staff reviewed the response to the complaint, received from Mac Setter on January 30, 2006.
- 4.5 Staff reviewed the internal log of errors associated with the transmission of electronic filings.
- 4.6 Staff reviewed a letter received from Mac Setter on August 20, 2004, and Mr. Setter's electronic filing account for Personal Financial Affairs Statement reporting.

V.

LAW

RCW 42.17.080 and .090 require candidates to file reports of contributions and expenditures. The reports must be timely, complete, and accurate. A PDC form C-3 must be completed for each bank deposit, and must be filed monthly, except for the four months preceding the election when a C-3 must be filed each Monday. A PDC form C-4, summarizing contributions and expenditures, must be filed monthly, except for special reports due 21 and 7 days before each election, and on the 10th day of the month following the last election in which the candidate's name appeared on the ballot. The C-4 report must contain all monetary deposits and expenditures made during the period covered by the report, and must also disclose debts, orders placed and obligations with an estimated or actual value of more than \$250 during the reporting period.

Respectfully submitted this 16th day of May, 2006.

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Tony Perkins
Political Finance Specialist

EXHIBIT LIST

- Exhibit 1** Candidate Registration filed by Mac Setter on March 25, 2004.
- Exhibit 2** Complaint filed by William McCallum against Mac Setter, received on October November 29, 2005.
- Exhibit 3** C-3 and C-4 reports for periods from March 1 – June 30, 2004, filed by Mac Setter on August 18, 2004.
- Exhibit 4** C-3 reports for three deposits occurring on August 10, 11, and 26, 2004, filed by Mac Setter on September 21, 2004, and for four deposits occurring on October 8, December 7, and December 14, 2004, filed on January 27, 2006.
- Exhibit 5** C-4 report covering the month of August 2004, filed by Mac Setter on September 21, 2004.
- Exhibit 6** C-4 report covering the month of September 2004, filed by Mac Setter on October 19, 2004.
- Exhibit 7** C-4 report for the month of October 2004, filed by Mac Setter on January 27, 2006.
- Exhibit 8** C-4 reports for the month of November 2004, filed by Mac Setter on January 27, 2006.
- Exhibit 9** C-4 report for the period December 1, 2004 through January 31, 2006, filed by Mac Setter on January 27, 2006.
- Exhibit 10** Response letter from Mac Setter received on January 30, 2006.
- Exhibit 11** Email from PDC Filer Assistance Specialist Sally Parker, reporting on query of internal electronic filing error log.
- Exhibit 12** Letter received from Mac Setter on August 20, 2004, and screenshot of Mr. Setter's electronic filing account for Personal Financial Affairs Statement reporting.